

REMARKS:

I thank the Examiner for giving me an opportunity to discuss the merit of my case and distinguish it from the cited prior art during an interview held on February 9, 2004. The following remarks summarize the points that I were discussed:

The Examiner objected to claim 10 because of a misspelled word. I have amended claim 10 to correct this deficiency.

The Examiner rejected claims 10-13 as being unpatentable over single reference Mears US Patent No. 6,113,614 (hereinafter "Mears"). I respectfully request reconsideration of these claims in view of the following discussion as Mears neither teaches nor suggests using his device according to my method. Furthermore, Mears device cannot be used to perform my method because of structural characteristics of Mears.

My method utilizes a flexible catheter slideable over a guidewire that has a rotatable guidewire shield in the form of an inner tube, nested in an outer tube, both tubes having open adjacent distal ends and the tubes define between them an *unobstructed* void. My inner tube has no connection to any element for cutting or fragmenting the obstruction so as to minimally disturb the material in the vasculature prior to aspirating it into the void that is defined between my inner and outer tubes.

Mears, on the other had, has coil 12 that rotates a distal tip 22 that in turn rotates member 28 specifically to disrupt the obstruction material prior to aspirating it.

Therefore, Mears inherently does what my method avoids doing, i.e., he disturbs and fragments the obstructive material prior to capturing it which is likely to cause it to be released downstream into the vasculature causing more damage and creating additional risks.

According to my method the inner tube is rotated selectively, i.e., as needed to reduce the longitudinal frictional resistance to the movement of the material through the unobstructed void between the tubes (due to the negative pressure)



and to capture the obstruction material without disturbing it until it is safely contained inside the void.

Thus, to perform my method it is required that the inner tube has no connection to any element for cutting or fragmenting the obstruction, and therefore, member 28 of Mears, that is rotated together with a distal tip 22 to internationally *disrupt* the obstruction material prior to its entering his catheter make Mears unsuitable for my method.

Further, in my method, the inner tube is *selectively rotated* as needed to keep the material moving through the void whereas Mears continuous rotation would subject the material that already has been captured and it is inside the void to continuous shearing action. It tends to tease out the fibrotic elements from the blood and block the catheter.

Mears system is furthermore unsuitable for my method since it does not provide the unobstructed void between inner tube and outer tube.

The examiner has also rejected claim 14 under 35 U.S.C. 102 as being anticipated by Gordon US Patent No. 5,938,645. I have canceled claim 14 and thus this rejection becomes moot.

I believe the application is now in order for allowance and respectfully request the same.

I certify that this amendment is mailed on **February 17, 2004**, by EXPRESS MAIL # EV112810326US to the Com. Of Patents, POBox 1450, Alexandria, VA 22313-1450 and I request that the MAILING DATE be the entry date thereof.

Charges relating to this appl. to be applied to my Deposit Acct. 19-2040.

Samuel Shiber
365 Kearney Cir.
Manchester, NH 03104
Phone: (603) 644 1773